

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 7800 of 2023

Petitioner :- Sunil Kumar And 2 Others

Respondent :- Amar Kumar

Counsel for Petitioner :- Santosh Kumar Tiwari

Hon'ble Jayant Banerji,J.

1. Heard Shri Raj Kapoor Upadhyay (AOR No.A/R 0547/2012) holding brief of Shri Santosh Kumar Tiwari, learned counsel for the petitioners.

2. When the matter listed last on 10.10.2023, on the request of the learned counsel for the petitioner, the case was passed over to enable him to file a certified copy of the order-sheet. No supplementary affidavit enclosing the order-sheet has been filed pursuant to the order dated 10.10.2023. Though a supplementary affidavit is on record that was filed on 27.09.2023, the same does not contain the order-sheet.

3. This petition has been filed seeking the following relief:-

" It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to direct the trial court i.e. Civil Judge (Jr. Division), Bahedi, Bareilly to decide the interim injunction application 7ga filed by the petitioners in Original Suit No.39 of 2022, Sunil Kumar and others vs. Amar Kumar, within stipulated time as fixed by this Hon'ble Court or in the alternative to direct the defendants to maintain status quo and also not to interfere in the peaceful possession of the petitioner, And/or to pass any such other and further interim-order which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case."

4. It appears that the petitioner has instituted a suit for permanent injunction in the court of the Civil Judge (Junior Division), Bahedi, Bareilly. Alongwith the aforesaid suit, an application under Order 39 Rules 1 and 2 CPC dated 24.02.2022 was filed bearing paper no.6-C which was supported by an affidavit 7-C. It has been stated that the court

issued notice. From a perusal of the order-sheet, it reveals that dates are being fixed and the court is proceeding with the matter.

5. Under the circumstances, the relief as sought for cannot be granted. No interference is called for and this petition is **dismissed**.

6. However, this Court has no reason to doubt that in case the defendant has been duly served and adequate opportunity has been granted to the defendant, the trial court would proceed to consider the application 6-C in due course.

Order Date :- 28.10.2023

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(Jayant Banerji, J.)